MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.9 OF 1999
IN
WRIT PETITION NO.4400 OF 1998

Krishna Dnyankranti Geeta Ashram Petitioner
versus
The Director, Women & Child
Welfare (Mah.) Pune & others Respondents

Mr.C.R.Sonawane, AGP for respondents.

CORAM : A.S.OKA, J.

DATE : 15th March 2007

PC :

1. The advocate for the petitioner is not present. Learned AGP is present for the respondents. The Farad Sheet shows that when this petition appeared on board on 23rd February 2005 and 19th September 2006, none appeared for the petitioner. The allegation in the petition is that the respondents have not obeyed the order dated 9th September 1998 passed by this Court in Writ Petition No.4400 of 1998. The aforesaid order passed by this Court reads thus:-

> " Shri Chavgule states that the petitioner would like to make a fresh representation to the Government against derecognition of the Children's Home run by the petitioner and, in order to put the Government in the proper receptive frame of mind, he would not like to press this Writ Petition. Writ Petition allowed to be withdrawn and dismissed as such.
>
> If a fresh representation is made for cancellation of derecognition and/or granting of fresh recognition to the Children's Home run by the petitioner, the State authorities shall consider the same on merits and, in any event, convey their decision to the petitioner within a period of four weeks from the receipt thereof."

2. The case made out in this petition is that on the basis of the aforesaid order the petitioner made a representation which was received by the first respondent on 15th September 1998. In the said representation the petitioner prayed for grant of recognition and grant of financial assistance in the form of grant-in-aid by quashing and setting aside the order dated 31st January 1996 passed by the first respondent. In the petition it is disclosed that on the basis of the said representation, the first and second respondents called upon the petitioner to submit a new proposal for children's Home. The grievance of the petitioner in the petition is that instead of deciding the representation made

by the petitioner in terms of the order passed by the Division Bench of this Court, the first and second respondents have called upon the petitioner to submit a new proposal for recognition of the Children's Home. This according to the petitioner is in breach of the order passed by this court on 9th September 1998.

3. When this petition came up before this Court on 23rd February 2006, this Court noted that the petitioner was called upon to submit an application along with documents. This Court also noted that by letter dated 21st December 1998 the respondents advised the petitioner to submit a fresh proposal but no such fresh proposal was received till 17th February 1999.

4. Today, the learned AGP has placed on record an affidavit of the second respondent Shri Anandrao Dhondiram Gajgeshwar. In paragraph no.3 of the said affidavit he has stated that repeatedly the petitioner was called upon to submit a fresh proposal. It is pointed out that the petitioner has not submitted a fresh proposal and hence the respondents were unable to decide the same.

5. Even in the order dated 23rd Fabruary 2005, this Court has observed that the petitioners submitted a fresh representation on 7th February 1998 but the said representation was not a fresh proposal but it was only for reconsideration of the rejected proposal. It is set out in the affidavit-in-reply of the second respondent that as a fresh proposal is not submitted by the petitioners, the respondents were not able to take decision on the said representation.

6. In the order passed by this Court on 9th September 1998 it is stated that after fresh representation is made for cancellation of derecognition and/or granting of fresh recognition to the Children’s Home run by the petitioner, the same shall be considered within a period of four weeks. The petitioner has annexed a copy of representation made by him. One of the prayers in the representation was to grant recognition to the Children’s Home run by the petitioner and to provide grant-in-aid. The other prayer is for quashing and setting aside the earlier order dated 31st January 1996. As a prayer was made for grant of recognition, the second respondent called upon the petitioner to submit a fresh proposal along with necessary

MST

documents. Now a stand has been taken by the contemnors that in absence of a fresh proposal submitted by the petitioner, the prayer made in the representation cannot be considered.

7. Therefore, it appears to me that this is not a case where any deliberate breach or violation of the order passed by this Court on 9th September 1998 has been made by the respondents. The petitioner was repeatedly called upon to submit a fresh proposal which has not been done till today. It is obvious that if a fresh proposal is submitted by the petitioner, the concerned authorities are bound to consider the same along with the representation of the petitioner.

8. No case is made out for taking action under the Contempt of Courts Act, 1971 against the respondents. Hence, notice issued to the respondents is discharged. Contempt Petition is disposed of.

(A.S.OKA, J.)